D.B. CIVIL SPECIAL APPEAL (WRIT) NO.121/2005
(M/s. Rajat Fashion Bazar & ors. Vs. SBBJ & anr.)

Date of order : 23.05.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE DINESH MAHESHWARI

Shri Sachin Acharya for the appellants.

This special appeal is directed against the order of the learned Single Judge dated 29.03.2005 dismissing the writ petition of the appellants.

The dispute relates to repayment of the bank loan and the appellants had filed the writ petition seeking direction upon the respondent-State Bank of Bikaner and Jaipur, among other things to hand over possession of Nohra/show room to the appellants. Earlier, the Bank had taken over possession of Nohra/show room for non-payment of loan.

On 05.05.2006 when the case came up for hearing before us, taking a sympathetic view of the matter, we gave opportunity to the appellants to deposit Rs.2.75 lacs towards repayment of loan, and after taking instructions from the appellants, statement was made by the counsel that the amount will be deposited within one week. The matter was posted for 22.05.2006. When the case was taken up today, it

was stated by the counsel that money was not been deposited within the time allowed. We wanted to know whether the appellants are even now ready and willing to deposit the amount, the counsel after taking instructions expressed his inability to deposit the said amount. The dispute relates to repayment of bank loan. It is not in dispute that the appellants had taken loan from the Bank and they should have shown better discretion and paid instalments on time and liquidated the loan, he cannot take the shelter of writ jurisdiction of this Court to avoid payment of bank loan. We find no merit in this appeal which is, accordingly, dismissed.

(DINESH MAHESHWARI), J. (S.N. JHA), C.J.

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